

stated, upon which legal conclusions arise, these legal conclusions, need not themselves be stated. *Gibson et al. vs. McCormick*, 10 *Gill & Johns.*, 65, 108, 109.

My opinion, therefore, is, that upon this bill, the complainants are entitled to relief, as the personal representatives of the testator; provided, the proof in the cause, and the principles of law, applicable thereto, will warrant it.

The testator, by his will, gave to his wife, Barbara Jackson, his whole estate, real, personal and mixed, for and during her life; and at her death, to be equally divided among his children, and appointed his wife his executrix. She renounced her right to administer, and letters, *cum testamento annexo*, were granted to the defendant, Burch, who took upon himself the execution of the trust; and, the first question touching the extent of the complainants' title to recover, is, how far the bequest to the widow for life, vested in her the absolute right to the property which it is conceded the testator left.

It is no longer an open question in this state, that when money, or personal property, whose use is the conversion into money, is either specifically given to one, for life, by a will, or is included in the bequest of a general residue, an investment thereof must be made by the executor, in some safe and productive fund, so as to secure the dividends to the legatee for life, and the principal after his death, to the legatee in remainder. *Evans et al. vs. Iglehart et al.*, 6 *Gill & Johns.*, 172. "If," say the Court of Appeals, in the case referred to, "the surplus or residue thus bequeathed, consists of money or property, whose use is the conversion into money, and which it could not, for that reason, be intended, should be specifically enjoyed, nor consumed in the use, but be by the executor converted into money, for the benefit of the estate, an investment thereof must be made," &c.

But if, on the contrary, the property bequeathed is such, that its use is its consumption, the legatee for life, takes the absolute and entire interest, and the legatee overgets nothing.

In this case, my opinion is, that the articles embraced in the inventory, and accounts returned by the defendant, Burch, ex-